THE HONOURABLE SRI JUSTICE A.GOPAL REDDY

W.P.No.2610/2006

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V.Sarada ..Petitioner

V.

1. The District Collector, Prakasham District at Ongole and others.

..Respondents

THE HONOURABLE SRI JUSTICE A.GOPAL REDDY

W.P.No.2610/2006

ORAL ORDER

Questioning the order passed by the District Collector, Prakasham District, Ongole dt. 28-1-2006 allowing the revision petition filed by the respondents 5 to 7 and setting aside the order passed in favour of the petitioner by the Joint Collector dt. 30-9-2005, the present writ petition is filed.

A short resume of the facts, which are necessary for disposal of the writ petition, is as under:

The petitioner's authorization was suspended by order dt. 13-6-2005 of the third respondent, Revenue Divisional Officer, Ongole, pending enquiry into the irregularities committed by the petitioner. Aggrieved by the suspension order, the petitioner filed an appeal before the second respondent, Joint Collector, Ongole, who by order dt. 30-9-2005 allowed the appeal setting aside the suspension order passed by the third respondent dt. 13-6-2005. While allowing the appeal, the second respondent observed that the third respondent may initiate proceedings for cancellation or suspension as per Cl. 4 of A.P. State Public Distribution System (Control) Order, 2001. Aggrieved by the same, cardholders ie., respondents 5 to 7 filed revision before the first respondent, District Collector, Ongole, On taking revision petition on file, the first respondent by order dt. 17-11-2005 granted stay of operation of the orders of the second respondent dt. 30-9-2005. Aggrieved by the orders granting stay and entertaining revision by the first respondent, the petitioner filed WP No.25035/2005 before this

court. This court by order dt. 24-11-2005 allowed the writ petition and set aside the stay granted by the first respondent with a direction to the first respondent to dispose of the revision itself after affording sufficient opportunity to the petitioner as well as respondents 5 to 7. While so, the first respondent, by the impugned order dt. 28-1-2006 disposed of the revision petition by setting aside the order passed by the second respondent and remanded the matter to the third respondent to finalize the disciplinary proceedings against the petitioner within two months. Aggrieved by the same, the petitioner filed the present writ petition contending that the revision petition was initially posted for hearing on 24-1-2006 and on the said date when she appeared before the District Collector, she was informed that court is not functioning and they will sent a notice. Surprisingly, she came to know that the first respondent disposed of the revision petition on 28-1-2006, which is violation of principles of natural justice and the same is liable to be set-aside.

In the counter-affidavit filed by the first respondent, it is stated that notice was issued to the writ petitioner to appear before the District Collector on 24-1-2006 in addition to the advocate representing her. But due to unforeseen circumstances, the District Collector could not take up the revision petitions on 24-1-2006 and informed the Advocates and all other petitioners the next date of adjournment ie., 28-1-2005. Notices were issued to the advocates to attend on 28-1-2006. Since the adjournment is short, it was informed to the revision petitioners to attend before the first respondent on 28-1-2006, but no notice was issued to the writ petitioner. In the additional counter-affidavit, it is stated by the first respondent that formal notice dt. 27-1-2006 was issued to the advocates to attend on 28-1-2006 for hearing of the four cases posted for 28-1-2006. As adjournment is short, it was

informed to the revision petitioner/respondents 3 to 5 to attend before the first respondent on 28-1-2006 and formal notice dt. 27-1-2006 was not served on the advocate for the writ petitioner and no notice was issued to the writ petitioner.

In para 4 of the original counter-affidavit, it is stated that on allowing the appeal filed by the Joint Collector setting aside the suspension order passed by the third respondent, petitioner was allowed to file DDs and to lift the essential commodities.

No record has been produced to substantiate the plea taken by the first respondent about the information given to the writ petitioner with regard to next date of hearing ie., 28-1-2006. Further, the learned counsel for the petitioner produced a notice issued by the District Collector to the petitioner to appear before her on 12-3-2006 in the revision petition, obviously it was issued after filing the writ petition.

In view of the facts and circumstances of the case, it is presumed that the petitioner was not informed about the next date of hearing, on which date impugned orders was passed, thus the impugned order passed is in violation of principles of natural justice and the same cannot be sustainable.

The writ petition is allowed and the impugned order dt. 28-1-2006 passed by the first respondent is set-aside and the matter is remitted to the first respondent. The writ petitioner and respondents 5 to 7 shall appear before the first respondent on 17-4-2006 at 10-30 AM along with their respective advocates. On their appearance, the first respondent shall hear and pass appropriate orders. This order will not preclude the third respondent, Revenue Divisional Officer, Ongole from finalizing the disciplinary proceedings initiated against the petitioner and passing of orders, if any. No costs.

Kmr 4-4-2006